THE HON'BLE SRI JUSTICE G.CHANDRAIAH

W.P.NO.9902 OF 1994

DATED:11.08.2005

Between:

Hanamkonda Soloman and others.

Petitioners.

And

The Secretary to Government Revenue (U-CII)

Department, Andhra Pradesh, Hyderabad and two others.

O R D E R

Heard both the counsel.

2. This writ petition is filed to quash the order dated 19.10.1981 passed by the 3rd respondent – Special Officer and Competent Authority under the Urban Land Ceilings, Warangal in U.C.Case No.A1/3597/76 under Section 8(4) of the Urban Land (Ceiling And Regulation) Act, 1976 (for short hereinafter referred to as 'the Act') and all the consequential orders.

3. During the pendency of the writ petition, the 1st petitioner, who is the deponent in

the affidavit filed in support of the writ petition, died and, therefore, as per order dated 7.2.2005 in WPMP.NO.1341/2005 respondents 5 to 10 were brought on record as his legal representatives.

4. The case of the 1st petitioner is that he made statements declaring the lands and buildings held by him under Section 6(1) of the Act before the 3rd respondent – Special Officer and through the impugned order dated 19.10.1981 he was held to have possessed land admeasuring 2,587 sq. meters in S.Nos.632 and 633 of Hanymakonda Village, in excess of the land ceiling limit. The grievance of the petitioner is that the copy of the said order was not communicated to him by the 3rd respondent. Therefore, he filed an application seeking reopening of the matter. The same was rejected by the 3rd respondent by order dated 20.12.1983 on the ground that consequent to the order passed under Section 8(4) of the Act, notification under Section 10(1) and (3) of the Act have also been issued and published in the A.P. Gazette. Aggrieved by the same, the petitioner filed an appeal before the Commissioner, 2nd respondent who is the appellate authority under Section 33 of the Act. The said appeal was also dismissed. Challenging the same, the petitioner preferred a revision under Section 34 of the Act, before the 1st respondent and the same was dismissed by the 1st respondent through order dated 18.12.1993 in memorandum no.98883/UC.II(2)/92-4 on the ground that the petitioner had already filed appeal and as such the no revision lies against the order of the appellate authority passed under Section 33 of the Act.

5. The respondents filed counter and denied the allegations of the petitioner.

6. The leaned counsel for the petitioner contends that the order dated 19.10.1981 passed by the 3rd respondent was never communicated to the petitioner, nor it was signed by him and as such there is no order in the eye of law. He stated that this is evident from the order dated 28.12.1983, wherein the 3rd respondent observed that *"typed copy of the orders u/s 8(4) available in the file was not authenticated with the signature of the then Special Officer. Hence, the petitioner has been informed vide memo no.B2-2632/83 dt.25-10-1983 that no copy can be issued."* He further submitted that as there was no signed copy available in the original file, there could not have been any objection for the 3rd respondent in re-issuing the certified copy of the order to the petitioner on the application made by the petitioner seeking for

furnishing certified copy of the order. He, therefore, submitted that in the eye of law, there is no valid order in existence passed by 3rd respondent. He also submits that since there was no order dated 19.10.1981 in existence, the petitioner could not file any appeal, and he could file appeal only aggrieved by the order dated 28.12.1983 and the same was rejected by 2nd respondent by order dated 4.5.1984 and the subsequent revision was also rejected. Therefore, he submits that the reason given by the 1st respondent for rejecting the case of the petitioner that the petitioner has already availed appeal remedy, is untenable.

7 . The learned Government Pleader submits that in view of the facts and circumstances of the case, the 1st respondent may be directed to pass orders afresh, after giving opportunity to the petitioner.

8 . Under the above facts and circumstances, without going into the merits of the case, I deem it appropriate to direct the 3rd respondent to issue notice to the petitioner and pass appropriate orders afresh in accordance with law.

9 . The writ petition is accordingly allowed and the impugned orders in the writ petition are set aside, leaving it open to the 3rd respondent to pass orders afresh in accordance with law, after giving required notices to the petitioners. No costs.

AVS ----------

11--08-2005